

Attorney's Docket No.: 04873-056002

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Applicant : Jay Paul White
Serial No. : 09/338,744
Filed : June 23, 1999
Title : GLOBAL POSITIONING SYSTEMS APPLICATIONS

Art Unit : 2736
Examiner : B. Lee

TC 2700 MAIL ROOM

Commissioner for Patents
Washington, D.C. 20231

RESPONSE

This is responsive to the office action mailed April 12, 2000.

The examiner has rejected claims 19 and 33, the two independent claims, under 35 U.S.C. 103(a) as being unpatentable over Loomis in view of Hertel and applicant's own discussion of prior art uses of bar code scanners in warehouse operations. The examiner is urged to reconsider and withdraw the rejection.

As amended, the claims are limited to storing items in a warehouse of the type in which items are stored in defined storage locations such as shelves or bins. The conventional technique for keeping track of position location in such warehouses is to scan a bar code symbol associated with the shelf or bin at which the item is to be stored. Since each shelf or bin in such a warehouse is unique, it is readily possible to identify each shelf or bin with a unique bar code symbol, and that is the method conventionally followed. The invention goes against this conventional wisdom in suggesting that shelf or bin location be determined not by such bar code scanning but by receiving and processing a GPS signal.

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Loomis teaches nothing that would suggest applying its GPS methods to such a warehouse in which items are stored in defined storage locations. The examiner is correct that Loomis suggests applying the disclosed GPS techniques to "Asset Management", and specifically to "inventory management" and "asset tracking systems", but none of these business applications are a suggestion of using GPS in a warehouse in which items are stored in defined storage locations such as shelves and bins. Rather, what Loomis is referring to is the very different and general problem of recording the locations of assets that are stored in undefined storage locations, e.g., the random locations in which manufacturing hardware or office equipment are found through a company's buildings. In that application, there is no readily available way of recording location, and thus using the Loomis GPS technique would be sensible. But what applicant has done is apply GPS to a business method in which it would not, at first, appear to be worthwhile (as position of shelf or bin, for example, can be determined by simply scanning a label associated with the shelf or bin).

The examiner's most recent action suggests that the prior art would simply know to apply GPS in the claimed manner, but that is impermissible hindsight on the part of the examiner. There is nothing of record that would support the examiner's conclusion.

Hertel, the examiner's second reference, teaches the use of GPS to assist a shopper in finding the shelf or bin on which a desired item is located. Items are polled to learn their locations, and that information is given to a shopper. That is quite different from the invention's use of GPS, which is to identify the shelf or bin at the time that an item is stored. The art had conventionally used a bar code scanner to read a bar code symbol identifying the shelf or bin at the time that an item was stored. The use in Hertel of GPS information to guide a customer to a shelf or bin would not have taught the prior art to use GPS in the manner required by the invention. It is only with the 20/20 hindsight afforded by knowledge of the invention that the examiner can view Hertel as leading the art toward the invention.

A second reason why the rejection should be withdrawn is the vague teaching in Loomis of the use of a bar code scanner. The only mention of the scanner is at col. 7, line 47, and it is very unclear what its function is. The bar code scanner is said to be an "optional external unit" to which the "rover unit" containing the GPS equipment is connected. But absolutely nothing is said about what the bar code scanner is to be used for. The next several sentences in column 7

refer to "tagging" of a location or article, but we know from elsewhere in the specification of Loomis that "tagging" is a reference to time tagging, for later use in differential correction of GPS data. Thus, not only does Loomis fail to teach applicant's business method of using GPS to determine storage position in a warehouse with defined storage locations, but it also fails to teach with sufficient definiteness the use of a bar code symbol to identify the items being stored.

To make up for this serious shortcoming of Loomis, the examiner's most recent office action seems to rely on applicant's description of the use of bar code scanners in conventional warehouse systems. Applicant does not contend that bar code scanners had not been used in warehouse systems. The point applicant is making is that the combination of using GPS to record position at the time of storage, and bar code scanning to record identity, was new and not obvious. Applicant went carefully through what Loomis taught about bar code scanning in order to show that Loomis had not thought of this combination of GPS and bar code scanning. It is no answer to the fact that neither Loomis nor Hertel teach or suggest the combination for the examiner to merely point to the admitted fact that bar code scanning, by itself, had been used in warehouse storage systems.

As noted in an earlier response, a third shortcoming of Loomis is that it teaches nothing about associating in a database the GPS position information and the item identification information obtained from bar code scanning. The examiner has attempted to meet this shortcoming of Loomis by asserting, without the slightest support, that using a database with the system of Loomis would be necessary or obvious. More than such a bald assertion is required to make out a case of obviousness.

The remaining claims are all properly dependent on one of claims 19 or 33, and are thus allowable therewith. Each claim adds one or more further limitations that enhance patentability, but applicant does not rely on those limitations at the present time.

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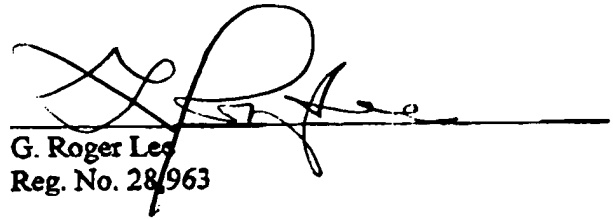
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Filed herewith is a Petition for Automatic Extension with the required fee. Please apply any other charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date: _____

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